



05-141-01

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kishlock et al.

Application No.: 09/779,266

Filed: February 8, 2001

For: ENERGY EFFICIENCY MEASURING SYSTEM AND REPORTING METHODS

Box: Missing Part  
Commissioner of Patents  
Washington, DC 20231

EXPRESS MAIL CERTIFICATE

"Express Mail" label number EF324290243US

Date of Deposit May 11, 2001

I hereby certify that the following attached paper or fee

COMPLETION OF FILING REQUIREMENTS-NONPROVISIONAL APPLICATION  
COPY OF PTO FORM-1533  
DECLARATION  
STATEMENT BY ATTORNEY  
3.73 STATEMENT (With copy of executed Assignment)  
CHECK PAYABLE TO PTO

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Box: Missing Part, Commissioner of Patents, Washington, D.C. 20231.

*Beth H. Retort*  
Beth H. Retort

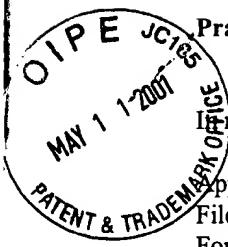
(Typed or printed name of person mailing paper or fee)

*Jay W. Belair*  
(Signature of person mailing paper or fee)

NOTE: Each paper must have its own certificate and the "Express Mail" label number as a part thereof or attached thereto. When, as here, the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper or fee it accompanies. Identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g. complete application, specification and drawings, responses to rejection or refusal, notice of appeal, etc. If the serial number of the application is not known, the identification should include at least the name of the inventor(s) and the title of the invention.

NOTE: The label number need not be placed in each page. It should, however, be placed on the first page of each separate document, such as, a new application, amendment, assignment, and transmittal letter for a fee, along with the certificate of mailing by "Express Mail." Although the label number may be on checks, such a practice is not required. In order not to deface formal drawings it is suggested that the label number be placed on the back of each formal drawing or the drawings be accompanied by a set of informal drawings on which the label number is placed.

(Express Mail Certificate [8-3])



Practitioner's Docket No. 09/779,266

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Kishlock et al.

Application No.: 09/779,266

Filed: February 8, 2001

For: ENERGY EFFICIENCY MEASURING SYSTEM AND REPORTING METHODS

Box Missing Part

Commissioner for Patents

Washington, DC 20231

**COMPLETION OF FILING REQUIREMENTS  
— NONPROVISIONAL APPLICATION**

(check and complete this item, if applicable)

I.  This replies to the Notice to File Missing Parts of Application (PTO-1533) mailed  
March 12, 2001

**NOTE:** *If these papers are filed before the office letter issues, adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.*

A copy of the Notice to File Missing Parts of Application—Filing Date Granted (Form PTO-1533) is enclosed.

**NOTE:** *The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.*

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**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))**

I hereby certify that this correspondence is, on the date shown below, being:

**MAILING**

deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

**FACSIMILE**

transmitted by facsimile to the Patent and Trademark Office.

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**Signature**

Date: \_\_\_\_\_

*(type or print name of person certifying)*



## TRANSMITTAL OF ENGLISH TRANSLATION OF NON-ENGLISH LANGUAGE PAPERS

IV.  Submitted herewith is an English translation of the non-English language application papers as originally filed. Also submitted herewith is a statement by the translator of the accuracy of the translation. It is requested that this translation be used as the copy for examination purposes in the PTO.

*NOTE: For fee processing a non-English application, complete item VI(5) below.*

*NOTE: A non-English oath or declaration in the form provided by the PTO need not be translated. 37 C.F.R. 1.69(b).*

### SMALL ENTITY STATUS

V.  A statement that this filing is by a small entity. A statement that this filing is by a small entity is hereby asserted in accordance with the rule change effective September 8, 2000, 65 Fed. Reg. 54603.

### COMPLETION FEES

#### VI.

**WARNING:** *Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 C.F.R. 1.53.*

*NOTE: For effect on fees of failure to establish status, or change status, as a small entity, see 37 C.F.R. 1.28(a).*

##### 1. Filing fee

original patent application  
(37 C.F.R. 1.16(a)—\$710.00; Small entity—\$355.00) \$ \_\_\_\_\_

design application  
(37 C.F.R. 1.16(f)—\$310.00; small entity—\$155.00) \$ \_\_\_\_\_

\$ \_\_\_\_\_

##### 2. Fees for claims

each independent claim in excess of 3  
(37 C.F.R. 1.16(b)—\$80.00; small entity—\$40.00) \$ \_\_\_\_\_

each claim in excess of 20  
(37 C.F.R. 1.16(c)—\$18.00; small entity—\$9.00) \$ \_\_\_\_\_

multiple dependent claim(s)  
(37 C.F.R. 1.16(d)—\$270.00; small entity—\$135.00) \$ \_\_\_\_\_

3. Surcharge fees

late payment of filing fee

*and/or*

late filing of original declaration or oath  
(37 C.F.R. 1.16(e)—\$130.00; small entity—\$65.00); \$65.00

*NOTE:* Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers, the surcharge fee is required.

*NOTE:* If both the filing fee and declaration or oath were missing from the original papers, only one surcharge fee for both need be paid. 37 C.F.R. 1.16(e).

4.  Petition and fee for filing by other than all the inventors or a person not the inventor (37 C.F.R. 1.17(i) and 1.47—\$130.00) \$ \_\_\_\_\_

5.  Fee for processing an application filed with a specification in a non-English language (37 C.F.R. 1.17(k) and 1.52(d)—\$130.00) \$ \_\_\_\_\_

6.  Fee for processing and retention of application (37 C.F.R. 1.21(l) and 1.53(d)—\$130.00) \$ \_\_\_\_\_

7.  Assignment (See "ASSIGNMENT COVER SHEET".)

*NOTE:* 37 C.F.R. 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 C.F.R. 1.53(f) and this, as well as, the changes to 37 C.F.R. 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of § 1.21(l) within 1 year of notification under § 1.53(f) must be paid.

Total completion fees \$ 65.00

**EXTENSION OF TIME**

**VII.**

*(complete (a) or (b), as applicable)*

The proceedings herein are for a patent application, and the provisions of 37 C.F.R. 1.136(a) apply.

(a)  Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. 1.17(a)(1)-(4), for the total number of months checked below:

<u>Extension (months)</u>	<u>Fee for other than small entity</u>	<u>Fee for small entity</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 390.00	\$195.00
<input type="checkbox"/> three months	\$ 890.00	\$445.00
<input type="checkbox"/> four months	\$1,390.00	\$695.00

Fee \$

If an additional extension of time is required, please consider this a petition therefor.  
(check and complete the next item, if applicable)

An extension for \_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

or

(b)  Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

#### **TOTAL FEE DUE**

#### **VIII.**

The total fee due is

Completion fee(s)	\$ <u>65.00</u>
Extension fee (if any)	\$ <u>0</u>

Total Fee Due \$ 65.00

#### **PAYMENT OF FEES**

#### **IX.**

Enclosed is a check in the amount of \$ 65.00

Charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_  
A duplicate of this request is attached.

NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 C.F.R. 1.22(b).

Please charge Account No. 11-1110 for any fees that may be due by this paper.

#### **AUTHORIZATION TO CHARGE ADDITIONAL FEES**

#### **X.**

**WARNING:** Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges if extra claims are authorized.

NOTE: "Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).

The Commissioner is hereby authorized to charge the following additional fees that may be required by this paper and during the pendency of this application to Account No. 11-1110.



- 37 C.F.R. 1.16(a), (f) or (g) (filing fees)
- 37 C.F.R. 1.16(b), (c) and (d) (presentation of extra claims)

*NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.*

- 37 C.F.R. 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- 37 C.F.R. §§ 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a))
- 37 C.F.R. 1.17 (application processing fees)

*NOTE: "A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).*

- 37 C.F.R. 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. 1.311(b))

*NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 C.F.R. 1.311(b).*

*NOTE: 37 C.F.R. 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying . . . issue fee . . ." From the wording of 37 C.F.R. 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.*



**SIGNATURE OF PRACTITIONER**

Reg. No. 40,120

Jonathan C. Parks  
(type or print name of practitioner)

Tel. No.: (412) 355-6288

Kirkpatrick & Lockhart LLP  
P.O. Address  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222-2312

Customer No. \_\_\_\_\_

43



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 WASHINGTON, D.C. 20231  
 www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/779,266	02/08/2001	Teresa Kishlock	001103

CONFIRMATION NO. 4095

## FORMALITIES LETTER



\*OC00000005852770\*

26285  
 KIRKPATRICK & LOCKHART LLP  
 535 SMITHFIELD STREET  
 PITTSBURGH, PA 15222

Date Mailed: 03/12/2001

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 65.

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*Feb 18*  
*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

05/16/2001 DTESEM1 00000012 09779266

01 FC:205

65.00 OP